

**PROPOSAL NOT VALID WITHOUT VALIDATION EMAIL**

Solicitation (RFQ) No. DN-11123186

Bidder/Offeror: \_\_\_\_\_

**THIS PAGE IS TO BE FILLED OUT AND RETURNED WITH YOUR BID. FAILURE TO DO SO  
MAY SUBJECT YOUR BID TO REJECTION.**

ATTENTION

Federal Employer Identification Number or alternate identification number  
(e.g., Social Security Number) is used for internal processing, including bid tabulation.

Enter ID number here: \_\_\_\_\_

Pursuant to N.C.G.S. 132-1.10(b) this identification number shall not be released to the public.

This page will be removed and shredded, or otherwise kept confidential,  
before the procurement file is made available for public inspection.



<b>State of North Carolina</b> <del>PROPOSAL NOT VALID WITHOUT VALIDATION EMAIL</del>	<b>REQUEST FOR QUOTES NO. DN-11123186</b>
<b>Department of Transportation</b>	Quotes will be publicly opened: May 22, 2012
<b>Purchasing Department</b>	<b>Contract Type: Services</b>
<b>Refer ALL Inquiries to:</b> Wanda H. Austin, PE (828) 586-2141	<b>Service: Grounds &amp; Lawn Maintenance</b>
E-Mail: whaustin@ncdot.gov	Using Agency Name: NC DOT. ( Division 14 Roadside Environmental-Henderson County )
<b>(See page 2 for mailing instructions.)</b>	Agency Requisition No. 11123186

**NOTICE TO OFFEROR**

Quotes, subject to the conditions made a part hereof, will be received at this office (253 Webster Road Sylva, NC) until **2:00 p.m.** on the day of opening and then opened, for furnishing and delivering the commodity as described herein. Refer to page 2 for proper mailing instructions.

Quotes are subject to rejection unless submitted on this form.

**EXECUTION**

In compliance with this Request for Quotes, and subject to all the conditions herein, the undersigned offers and agrees to furnish and deliver any or all items upon which prices are offered, at the prices set opposite each item within the time specified herein. By executing this offer, I certify that this quote is submitted competitively and without collusion, that none of our officers, directors, or owners of an unincorporated business entity has been convicted of any violations of chapter 78A of the General Statutes, the Securities Act of 1933, or the Securities Exchange Act of 1934 (G.S. 143-59.2), and that we are not an ineligible vendor as set forth in G.S. 143-59.1. False certification is a Class I felony.

**Failure to execute/sign quote prior to submittal shall render quote invalid. Late quotes are not acceptable.**

OFFEROR:		
STREET ADDRESS:	P.O. BOX:	ZIP:
CITY & STATE & ZIP:	TELEPHONE NUMBER:	TOLL FREE TEL. NO (800)
PRINT NAME & TITLE OF PERSON SIGNING:	FAX NUMBER:	
AUTHORIZED SIGNATURE:	DATE:	E-MAIL:

Offer valid for 45 days from date of opening unless otherwise stated here: \_\_\_\_ days (See Instructions for Quotes, Item 5). Prompt Payment Discount: \_\_\_\_\_ % \_\_\_\_\_ days (See Instructions for Quotes, Item 6).

**ACCEPTANCE OF QUOTE**

If any or all parts of this quote are accepted, an authorized representative of NCDOT shall affix their signature hereto and this document and the provisions of the Instructions for Quotes, special terms and conditions specific to this Request for Quotes, the specifications, and the North Carolina General Contract Terms and Conditions shall then constitute the written agreement between the parties. A copy of this acceptance will be forwarded to the successful offeror.

<b><u>FOR NCDOT USE ONLY</u></b>
Offer accepted and contract awarded this ____ day of _____, 20____, as indicated on attached certification, by _____ (Authorized representative of NCDOT).

In an effort to support the sustainability efforts of the State of North Carolina we solicit your cooperation in this effort.

**It is desirable that all responses meet the following requirements:**

- All copies are printed **double sided**.
- All submittals and copies are printed on **recycled paper with a minimum post-consumer content of 30%** and indicate this information accordingly on the response.
- Unless absolutely necessary, all bids and copies should **minimize or eliminate use of non-recyclable or non re-usable materials** such as plastic report covers, plastic dividers, vinyl sleeves, and GBC binding. Three-ringed binders, glued materials, paper clips, and staples are acceptable.
- Materials should be submitted in a format which allows for **easy removal and recycling** of paper materials.

**MAILING INSTRUCTIONS:** Mail only one fully executed quote document, unless otherwise instructed, and only one quote per envelope. Address envelope and insert quote number as shown below: It is the responsibility of the offeror to have the quote in this office by the specified time and date of opening.

<b><u>DELIVERED BY US POSTAL SERVICE</u></b>	<b><u>DELIVERED BY ANY OTHER MEANS</u></b>
QUOTE NO. DN-11123186 N. C. Department of Transportation Attn: Wanda H. Austin 253 Webster Road Sylva, NC 28779	QUOTE NO. DN-11123186 N. C. Department of Transportation Attn: Wanda H. Austin 253 Webster Road Sylva, NC 28779

**TABULATIONS:** Verbal tabulations of quotes and award information can be obtained by calling the purchaser listed on the first page of this document.

**TRANSPORTATION ARGES:** F.O.B, DESTINATION

**ATTENTION: This contract is not included in e-procurement. Paragraphs #19 and #20 of the North Carolina General Contract Terms and Conditions do NOT apply.**

**VENDOR REGISTRATION AND SOLICITATION NOTIFICATION SYSTEM:** Vendor Link NC allows vendors to electronically register free with the State to receive electronic notification of current procurement opportunities for goods and services available on the Interactive Purchasing System. Online registration and other purchasing information are available on our Internet web site: < <http://www.state.nc.us/pandc/> >.

**HAZARDOUS SUBSTANCE AND/OR OIL SPILLS:**

Contractors hired by the Department of Transportation shall be responsible for any costs (direct or indirect) associated with damage and/or cleanup of a hazardous substance and/or oil spill caused by the Contractor or his agent. This responsibility shall extend to freight carriers who were hired by the Contractor to deliver the commodity or service to the Department. While on Department premises, the Contractor shall comply with all Local, State, and Federal requirements for the proper handling of hazardous substances and/or oil.

For the purpose of this section hazardous substances shall be defined as any substance, other than oil, which when discharged in any quantity may present an imminent and substantial danger to the public health or welfare. Oil shall be defined as any oil of any kind and in any form, including, but specifically not limited to, petroleum, crude oil, diesel oil, fuel oil, gasoline, lubrication oil, oil refuse, oil mixed with other waste, oil sludge, petroleum related products or by-products, and all other liquid hydrocarbons, regardless of specific gravity, whether singly or in combination with other substances.

In addition, the Contractor agrees to indemnify and hold the Department harmless against all claims, liabilities, and costs, including attorneys' fees, incurred in the defense of any claim brought against the Department resulting from such a spill.

**DEBARMENT CERTIFICATION:** The bidder certifies to the best of its knowledge and belief, that it and its principals are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions by any Federal or State department or agency.

N.C.G.S. § 133-32 and Executive Order 24 prohibit the offer to, or acceptance by, any State Employee of any gift from anyone with a contract with the State, or from any person seeking to do business with the State. By execution of any response in this procurement, you attest, for your entire organization and its employees or agents, that you are not aware that any such gift has been offered, accepted, or promised by any employees of your organization. By signature below the Contractor attests to the above statement.

\_\_\_\_\_  
Contractor's Signature

\_\_\_\_\_  
Date

**TRANSPORTATION ARGES:** F.O.B.

**CHECK ONE OF THE FOLLOWING THAT APPLIES:**

**COMMODITIES:** ATTENTION: This is an e-procurement solicitation. See paragraph #19 of the attached General Contract Terms and Conditions.

The Terms and Conditions made part of this solicitation contain new language necessary for implementation of North Carolina's Statewide e-procurement initiative.

It is the offeror's responsibility to read these terms and conditions carefully and consider them in preparing the offer. By signature offeror acknowledges acceptance of all terms and conditions, including those related to e-procurement.

General information on the e-procurement service can be found at: <http://eprocurement.ncgov.com/>

**SERVICES:** ATTENTION: This contract is not included in e-procurement. Paragraphs #19 and #20 of the attached General Contract Terms and Conditions do **NOT** apply.

**USER:** N. C. Department of Transportation, Division 14 Roadside Environmental.

1. **INTRODUCTION AND SCOPE:** The NC DOT, Division 14 Roadside Environmental, is responsible for providing safe, attractive and clean landscape maintenance. This contracting agency seeks proposals from qualified, experienced offeror's to provide an efficient and professional service with minimal interruption of service upon expiration of the previous contract. The landscape maintenance services as herein specified shall consist of all-inclusive landscape maintenance. This contract includes but is not limited to providing all necessary labor, equipment and materials for mowing, edging, trimming and trash/litter clean up.
2. **CONTRACT PERIOD:** The term of this contract shall be one year beginning on or about July 1, 2012 and end June 30, 2013 unless terminated as provided herein. At the option of the contracting agency and NC DOT, this contract may be extended for two (2) additional periods of one (1) year each (maximum of three years total). The unit price will be adjusted by an annual increase of 3%. If the original contract for some reason does not actually start on July 1, 2012 the first term shall still terminate on June 30, 2013.
3. **LOCATION:** I-26 Mile Marker 17 Department of Motor Vehicle Weigh Stations-East and West Bound in Henderson County
4. **PRE WORK CONFERENCE:** Following the award of a contract and prior to beginning work, the Engineer will schedule a project Pre-Work Conference with the Contractor. At this time, the Engineer will evaluate the Contractor's work plan, staffing, etc. to insure compliance with the contract. The Contractor shall furnish the supervisor's name, address and phone number.
5. **DEFAULT**
  - a) Default includes, but is not limited to, items in this section. The contracting agency shall declare the contractor in default for failure to consistently provide acceptable services, supervision, materials, training, approved equipment and supplies or if he/she (the contractor or the contractor's employees) disregard the policies and procedures specified herein. The contracting agency reserves

the right to determine whether the contractor is meeting the terms and conditions of this contract. A high level of cleanliness is required in the performance of this contract and the contract shall be enforced accordingly.

- b) The contracting agency, through Division 14, shall issue warning letters when the contractor fails to correct issues detected during random or scheduled inspections. Warning letters can also be issued based on complaints from the contract coordinators. Each time a warning letter is issued; sufficient time is allowed to correct the issues. A second or third warning letter can be issued for other problems not related to other previously issued warning letters. Any contractor who accumulates three (3) warning letters during the term of their contract shall be recommended for default. All warning letters will be sent via certified mail (return receipt requested).
- c) When second or third warning letters are issued, an onsite meeting with the contractor and the contracting agencies personnel is required.
- d) Failure to correct an expressed contract performance or compliance term such as but not limited to: 30 days of no service within a 12 month period, or 14 days of no service within any given month, the contract will be considered in default without the issuance of three (3) warning letters. The contract may also be considered in default under other circumstances expressly stated in the contract such as but not limited to serious security breach, health endangerment, and acts of terrorism without the issuance of three (3) warning letters. In each case, the Contract Administrator shall determine if default is recommended. Default/Cancellation notices will be expedited within the next five (5) business days and a written notice will be sent by certified mail (return receipt requested). If the contractor refuses acceptance of the default/cancellation notice sent certified mail, the notice will remain in effect and all further dealings will be terminated.
- e) The Contractor may cancel the contract by giving sixty (60) days prior written notice. Such notice by the Contractor should in no way be construed as taking away the right of the Contracting Agency to cancel for unsatisfactory performance.

## 6. GROUNDS MAINTENANCE

### a) GENERAL REQUIREMENTS

- i) General: All labor, materials and equipment are to be provided by the contractor; supplies such as, but not limited to mowers, blowers, lawn edger, string trimmers, aerator, etc.
- ii) Renovation Work: Facilities may need additional construction or repairs during the life of this contract. The Contractor will be required to cooperate with other Contractors or State Forces.
- iii) Repairs: The Contractor shall be responsible for repairing damages caused in connection with performance of this contract, to existing equipment, structures, sign post, light standards, vehicles,, etc.
- iv) Standard Uniforms: The Contractor's employees shall be in uniforms consisting of shirt with the employee's and Company's name/logo and trousers (or hemmed knee length shorts for summer wear). In addition to the uniform a safety vests will be required, which must be worn by employees for safety and identification purposes. The uniform shall be worn by all personnel including the supervisor. The uniform shall be neat, clean and pressed.
- v) Signs: The Contractor shall place work/caution signs when servicing any area of the weigh station while utilizing motorized equipment during maintenance operations. Special precautions should be used when mowers, lawn edger, or other equipment are operated within the vicinity of the general public, their vehicles and property.
- vi) Fire Extinguisher and First Aid Kit: These items shall be furnished by the Contractor and readily available at all times when work is being performed at the weigh station.
- vii) Cooperation with Law Enforcement: Contractor's personnel shall cooperate with duly constituted law enforcement officers in the performance of their duties.
- viii) Lost & Found: All misplaced/lost items found at the weigh station site shall be turned over to the Division Roadside Environmental Engineer or his representative. Each item shall be tagged showing the date and place found, description of item and signature of finder.
- ix) Visitors: Employees will not be allowed to have family members, friends, etc. visiting (hanging around) the weigh station property while employee is working.
- x) Temporary Facilities: The Contractor will not be permitted to set up temporary utility building(s), trailer(s), vehicles, etc. for storage, office, etc. on the site. Equipment supplies and materials are to be brought to the project site as needed.

### b) LAWN AND GROUNDS MAINTENANCE

- i) General: The term "Grounds" includes, but is not limited to parking areas, lawns, drives, walkways and undeveloped areas within the NCDOT/Weigh Station site. The weigh station site shall be considered as the area between the main roadway shoulder (weigh station side) to the control access fence; from the beginning of the entrance ramp into the weigh station and to the end of the exit ramp from the weigh station
- ii) Paved Areas: The sidewalks, curb and gutters, parking lots and drives shall consist of keeping these areas free of litter, debris, trash, weeds in concrete joints, etc. The Contractor shall be responsible for edging and trimming these areas properly as well as keeping these areas free of excessive grass clippings.
- iii) Seasonal Work: For the purpose of this contract the growing/mowing season is defined to be March through October. Cleanup mowing, trash removal, leaf removal, etc. from November through February.
  - 1. Maintaining Lawn/Grass Areas

- a. General: The work of maintaining the lawn/grass areas shall consist of grass cutting/mowing and leaf removal. Grass cutting shall consist of mowing, edging, trimming, trash debris and lawn clipping removal and disposal.
  - b. Mowing: The grass mowing height will depend on the type of lawn; warm-season grass to be maintained 1 to 3 inches high; cool season grass to be maintained 3 to 6 inches high. The cutting cycle in order to maintain the desired height will be cutting every 7 to 14 days during the growing season and cleanup mowing, letter cleanup, edging, etc. no less than once every 21 days.
  - c. Litter Cleanup: All trash (paper, sticks, bottles, etc.) to be removed prior to cutting the grass and thereafter every 3 weeks after the primary grass cutting seasons. After cutting grass or during cleanup/mowing all excessive clippings to be removed from the lawn along with any debris, clippings and trash removed from all paved areas, such as sidewalks, curbs, gutters and drives. The excessive grass clippings and litter material to be disposed of by the Contractor.
  - d. Edging/Trimming: After each mowing, the curbs, sidewalks, areas around light standards, sign, etc. to be edged and trimmed. These areas are to be maintained with a crisp edge and excess grass trimmed for a neat appearance.
2. Leaf Removal: During the fall leaf season excess leaves are to be raked or blown from the lawn, walks, drives, etc. and removed by the Contractor. Leaf removal may be included along with the regular cleanup mowing, trash, debris removal work. Leaf removal will be required once in October, November and December.
  3. Maintaining Flower Beds: Maintain existing daylily beds to include spraying for control of weeds and mowing beds in the fall of the year.
- c) **PERSONNEL REQUIREMENTS**
- i) General: The Contractor is to make a review of the contract requirement for work included herein and determine the actual job site conditions. Additionally, the Contractor's personnel are to conduct themselves in such a manner as to reflect favorable on the state and Contractor providing the service.
  - ii) Staffing: The Contractor shall provide sufficient personnel to satisfy the contract objective at all times. Employees' should be trained in proper grounds maintenance procedures (e.g. mowing, trimming, edging, etc.) The Department reserves the right to require the Contractor to replace any employee deemed unqualified, displaying unfavorable personal conduct or appearance and/or making a bad reflection on NCDOT to the traveling public. Note: Supervisor/crew leader will be required to communicate in English.
  - iii) Supervisor: The Contractor's Supervisor shall be available by telephone and/or telephone pager for immediate contact during normal work hours. The supervisor shall have the authority to take immediate action to correct conditions determined by the Department to be unsafe, or reflecting unfavorable on the State of North Carolina and the Contractor. The supervisor shall maintain a monthly work log indicating conditions of the facilities, work performed and date/time spent at the site. The report should contain a listing of employees working at the weigh station and their social security number and the work accomplished. A copy of the supervisor's monthly work log, signed and dated, shall be attached to the Contractor's monthly invoice for payment to the Department.
- d) **NON LAWN AND GROUNDS MAINTENANCE ITEMS**
- i) Items of work listed below are not a part of the lawn and ground maintenance contract; however, some of these items may be contracted on a separate purchase order at a later date:
    - (1) Landscape planting trees, shrubs, annuals, etc.
    - (2) Removal of trees, limbs, etc. from wind/rain storms
    - (3) Snow and ice removal from walks, drives, etc.
    - (4) Landscape maintenance of trees, shrubs
    - (5) Planting and maintaining wildflower areas
    - (6) Lawn aeration, fertilization and over seeding
    - (7) Herbicide spraying for broad leaf weeds
- e) **PAYMENT**
- Grounds and Lawn Maintenance* shall be paid at the contract unit price per month. Such payment will be full compensation for all work covered in this contract including but not limited to furnishing all labor, equipment, transportation, supplies and materials necessary to complete the work. Monthly submittal data required for processing payment is as follows:
- 1) Monthly invoice for services rendered
  - 2) Supervisor's Monthly Work Report
- Note: In the event of a Federal or State minimum wage increase, the contract price will be subject to renegotiation. The Contractor may be given an increase in contract price equal to his to his increased payroll labor costs resulting from the increase in the minimum wage, provided the Contractor furnishes the Department with cost records which support the contract price increase.
- Payment will be made under:

**Pay Item**

Grounds and Lawn Maintenance

**Pay Unit**

Month

QUOTE No.DN-11123186

OFFEROR: \_\_\_\_\_

---

Complete the following page to be submitted for quote.

Item Number	Description	Quantity	Unit Price	Amount
1	Ground & Lawn Maintenance	12 Month		

**Total Amount Bid:** \_\_\_\_\_

Will the any part of the Maintenance be performed by a subcontractor \_\_\_\_\_ (YES/NO)?

If yes, you must specify the service and the name, address and telephone number of subcontractor:

Service \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Service \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**INSTRUCTIONS FOR QUOTES**

1. **READ, REVIEW AND COMPLY:** It shall be the offeror's responsibility to read this entire document, review all enclosures and attachments, and comply with all requirements specified herein.
2. **NOTICE TO OFFERORS:** All quotes are subject to the provisions of the Instructions for Quotes, special terms and conditions specific to this Request for Quotes, the specifications, and the North Carolina General Contract Terms and Conditions. NCDOT objects to and will not evaluate or consider any additional terms and conditions submitted with a quote. This applies to any language appearing in or attached to the document as part of the offeror's response. **DO NOT ATTACH ANY ADDITIONAL TERMS AND CONDITIONS.**  
By execution and delivery of this document, the offeror agrees that any additional terms and conditions, whether submitted purposely or inadvertently, shall have no force or effect.
3. **DEFINITIONS:**
  - **OFFEROR:** Company, firm, corporation, partnership, individual, etc., submitting a response to a Request for Quotes.
  - **TERM CONTRACT:** A contract generally intended to cover all normal requirements for a commodity for a specified period of time based on estimated quantities only.
  - **STATEWIDE TERM CONTRACT:** A Term Contract for all agencies, unless exempted by statute, rule, or special term and condition specific to this quote.
  - **AGENCY SPECIFIC TERM CONTRACT:** A Term Contract for a specific agency.
  - **OPEN MARKET CONTRACT:** A contract for the purchase of a commodity not covered by a term contract.
4. **EXECUTION:** Failure to sign under EXECUTION section will render quote invalid.
5. **TIME FOR CONSIDERATION:** Unless otherwise indicated on the first page of this document, the offer shall be valid for 45 days from the date of quote opening. Preference may be given to quotes allowing not less than 45 days for consideration and acceptance.
6. **PROMPT PAYMENT DISCOUNTS:** Offerors are urged to compute all discounts into the price offered. If a prompt payment discount is offered, it will not be considered in the award of the contract except as a factor to aid in resolving cases of identical prices.
7. **SPECIFICATIONS:** Any deviation from specifications indicated herein must be clearly pointed out; otherwise, it will be considered that items offered are in strict compliance with these specifications, and offeror will be held responsible therefore. Deviations shall be explained in detail. **The offeror shall not construe this paragraph as inviting deviation or implying that any deviation will be acceptable**
8. **ORDER OF PRECEDENCE:** In cases of conflict between specific provisions in this quote, the order of precedence shall be (1) special terms and conditions specific to this quote, (2) specifications, (3) North Carolina General Contract Terms and Conditions, and (4) Instructions for Quotes.
9. **INFORMATION AND DESCRIPTIVE LITERATURE:** Offeror is to furnish all information requested and in the spaces provided in this document. Further, if required elsewhere in this quote, each offeror must submit with their quote sketches, descriptive literature and/or complete specifications covering the products offered. Reference to literature submitted with a previous offer will not satisfy this provision. Quotes which do not comply with these requirements will be subject to rejection.
10. **RECYCLING AND SOURCE REDUCTION:** It is the policy of this State to encourage and promote the purchase of products with recycled content to the extent economically practicable, and to purchase items which are reusable, refillable, repairable, more durable, and less toxic to the extent that the purchase or use is practicable and cost-effective. We also encourage and promote using minimal packaging and the use of recycled/recyclable products in the packaging of commodities purchased. However, no sacrifice in quality of packaging will be acceptable. The company remains responsible for providing packaging that will protect the commodity and contain it for its intended use. Companies are strongly urged to bring to the attention of purchasers those products or packaging they offer which have recycled content and that are recyclable.
11. **CLARIFICATIONS/INTERPRETATIONS:** Any and all questions regarding this document must be addressed to the purchaser named on the cover sheet of this document. Do not contact the user directly. Any and all revisions to this document shall be made only by written addendum. The offeror is cautioned that the requirements of this quote can be altered only by written addendum and that verbal communications from whatever source are of no effect.
12. **ACCEPTANCE AND REJECTION:** NCDOT reserves the right to reject any and all quotes, to waive any informality in quotes and, unless otherwise specified by the offeror, to accept any item in the quote. If either a unit price or extended price is obviously in error or the other is obviously correct, the incorrect price will be disregarded.

- 
13. **REFERENCES:** NCDOT reserves the right to require a list of users of the exact item offered NCDOT may contact these users to determine acceptability of the quote. Su information may be considered in the evaluation of the quote.
14. **HISTORICALLY UNDERUTILIZED BUSINESSES:** Pursuant to General Statute 143-48 and Executive Order #150, NCDOT invites and encourages participation in this procurement process by businesses owned by minorities, women, disabled, disabled business enterprises and non-profit work centers for the blind and severely disabled.
15. **AWARD OF CONTRACT:** Qualified quotes will be evaluated and acceptance may be made of the lowest and best quote most advantageous to NCDOT as determined upon consideration of such factors as: prices offered; the quality of the articles offered; the general reputation and performance capabilities of the offerors; the substantial conformity with the specifications and other conditions set forth in the quote; the suitability of the articles for the intended use; the related services needed; the date or dates of delivery and performance; and such other factors deemed by NCDOT to be pertinent or peculiar to the purchase in question. Unless otherwise specified by NCDOT or the offeror NCDOT reserves the right to accept any item or group of items on a multi-item quote.
- In addition, on TERM CONTRACTS NCDOT reserves the right to make partial, progressive or multiple awards: where it is advantageous to award separately by items; or where more than one supplier is needed to provide the contemplated requirements as to quantity, quality, delivery, service, geographical areas; other factors deemed by NCDOT to be pertinent or peculiar to the purchase in question.
16. **CONFIDENTIAL INFORMATION:** As provided by statute and rule, NCDOT will consider keeping trade secrets which the offeror does not wish disclosed confidential. Each page shall be identified in boldface at the top and bottom as "CONFIDENTIAL" by the offeror. Cost information shall not be deemed confidential. In spite of what is labeled as a trade secret, the determination whether it is or not will be determined by North Carolina law.
17. **TAXES:**
- **FEDERAL:** All agencies participating in this contract are exempt from Federal Taxes, such as excise and transportation. Exemption forms submitted by the contractor will be executed and returned by the using agency.
  - **OTHER:** Prices offered are not to include any personal property taxes, nor any sales or use tax (or fees) unless required by the North Carolina Department of Revenue.
18. **SAMPLES:** Sample of items, when required, must be furnished as stipulated herein, free of expense, and if not destroyed will, upon request be returned at the offeror's expense. Request for the return of samples must be made within 10 days following date of quote opening. Otherwise the samples will become NCDOT property. Each individual sample must be labeled with the offeror's name, quote number, and item number. A sample, on which an award is made, will be retained until the contract is completed, and then returned, if requested, as specified above.
19. **PROTEST PROCEDURES:** When an offeror wants to protest a contract awarded by the Secretary of Administration or by an agency over \$25,000 resulting from this solicitation, they must submit a written request to the State Purchasing Officer at Purchase and Contract, 1305 Mail Service Center, Raleigh, NC 27699-1305. This request must be received in the Division of Purchase and Contract within thirty (30) consecutive calendar days from the date of the contract award. When an offeror wants to protest a contract awarded by an agency or university resulting from this solicitation that is over \$10,000 but less than \$25,000 for any agency, or any contract awarded by a university, they must submit a written request to the issuing procurement officer at the address of the issuing agency. This request must be received in that office within thirty (30) consecutive calendar days from the date of the contract award. Protest letters must contain specific reasons and any supporting documentation for the protest. Note: Contract award notices are sent only to those actually awarded contracts, and not to every person or firm responding to this solicitation. Offerors may call the purchaser named in this document to obtain a verbal status of contract award. All protests will be handled pursuant to the North Carolina Administrative Code, Title 1, Department of Administration, chapter 5, Purchase and Contract, Section 5B.1519. (See Protest Information at <http://www.doa.state.nc.us/PandC/protests.pdf> for more information.)
20. **MISCELLANEOUS:** Masculine pronouns shall be read to include feminine pronouns, and the singular of any word or phrase shall be read to include the plural and vice versa.

---

**NORTH CAROLINA GENERAL CONTRACT TERMS AND CONDITIONS  
(Contractual and Consultant Services)**

1. **GOVERNING LAW:** This contract is made under and shall be governed and construed in accordance with the laws of the State of North Carolina.
2. **SITUS:** The place of this contract, its situs and forum, shall be North Carolina, where all matters, whether sounding in contract or tort, relating to its validity, construction, interpretation and enforcement shall be determined.
3. **INDEPENDENT CONTRACTOR:** The Contractor shall be considered to be an independent contractor and as such shall be wholly responsible for the work to be performed and for the supervision of its employees. The Contractor represents that it has, or will secure at its own expense, all personnel required in performing the services under this agreement. Its employees shall not be employees of, or have any individual contractual relationship with the Agency.
4. **KEY PERSONNEL:** The Contractor shall not substitute key personnel assigned to the performance of this contract without prior written approval by the Agency's Contract Administrator. The individuals designated as key personnel for purposes of this contract are those specified in the Contractor's proposal.
5. **SUBCONTRACTING:** Work proposed to be performed under this contract by the Contractor or its employees shall not be subcontracted without prior written approval of the Agency's Contract Administrator. Acceptance of an offeror's proposal shall include any subcontractor(s) specified therein.
6. **PERFORMANCE AND DEFAULT:** If, through any cause, the Contractor shall fail to fulfill in timely and proper manner the obligations under this agreement, the Agency shall thereupon have the right to terminate this contract by giving written notice to the Contractor and specifying the effective date thereof. In that event, all finished or unfinished deliverable items under this contract prepared by the Contractor shall, at the option of the Agency, become its property, and the Contractor shall be entitled to receive just and equitable compensation for any satisfactory work completed on such materials. Notwithstanding, the Contractor shall not be relieved of liability to the Agency for damages sustained by the Agency by virtue of any breach of this agreement, and the Agency may withhold any payment due the Contractor for the purpose of setoff until such time as the exact amount of damages due the Agency from such breach can be determined.

In case of default by the Contractor, the State may procure the services from other sources and hold the Contractor responsible for any excess cost occasioned thereby. The State reserves the right to require a performance bond or other acceptable alternative performance guarantees from successful offeror without expense to the State.

In addition, in the event of default by the Contractor under this contract, the State may immediately cease doing business with the Contractor, immediately terminate for cause all existing contracts the State has with the Contractor, and de-bar the Contractor from doing future business with the State

Upon the Contractor filing a petition for bankruptcy or the entering of a judgment of bankruptcy by or against the Contractor, the State may immediately terminate, for cause, this contract and all other existing contracts the Contractor has with the State, and de-bar the Contractor from doing future business

Neither party shall be deemed to be in default of its obligations hereunder if and so long as it is prevented from performing such obligations by any act of war, hostile foreign action, nuclear explosion, riot, strikes, civil insurrection, earthquake, hurricane, tornado, or other catastrophic natural event or act of God.

7. **TERMINATION:** The Agency may terminate this agreement at any time by 30 days notice in writing from the Agency to the Contractor. In that event, all finished or unfinished deliverable items prepared by the Contractor under this contract shall, at the option of the Agency, become its property. If the contract is terminated by the Agency as provided herein, the Contractor shall be paid for services satisfactorily completed, less payment or compensation previously made.
8. **PAYMENT TERMS:** Payment terms are Net not later than 30 days after receipt of correct invoice(s) or acceptance of services, whichever is later, or in accordance with any special payment schedule identified in this RFP. The using agency is responsible for all payments to the contractor under the contract. Payment by some agencies may be made by procurement card and it shall be accepted by the contractor for payment if the contractor accepts that card (Visa, Mastercard, etc.) from other customers. If payment is made by procurement card, then payment may be processed immediately by the contractor.
9. **AVAILABILITY OF FUNDS:** Any and all payments to the Contractor are dependent upon and subject to the availability of funds to the Agency for the purpose set forth in this agreement.
10. **CONFIDENTIALITY:** Any information, data, instruments, documents, studies or reports given to or prepared or assembled by the Contractor under this agreement shall be kept as confidential and not divulged or made available to any individual or organization without the prior written approval of the Agency.

11. **CARE OF PROPERTY:** The Contractor agrees that it shall be responsible for the proper custody and care of any property furnished it for use in connection with the performance of this contract or purchased by it for this contract and will reimburse the State for loss of damage of such property.
12. **COPYRIGHT:** No deliverable items produced in whole or in part under this agreement shall be the subject of an application for copyright by or on behalf of the Contractor.
13. **ACCESS TO PERSONS AND RECORDS:** The State Auditor shall have access to persons and records as a result of all contracts or grants entered into by State agencies or political subdivisions in accordance with General Statute 147-64.7. The Contractor shall retain all records for a period of three years following completion of the contract.
14. **ASSIGNMENT:** No assignment of the Contractor's obligations nor the Contractor's right to receive payment hereunder shall be permitted. However, upon written request approved by the issuing purchasing authority, the State may:
- a. Forward the contractor's payment check(s) directly to any person or entity designated by the Contractor, or
  - b. Include any person or entity designated by Contractor as a joint payee on the Contractor's payment check(s).
- In no event shall such approval and action obligate the State to anyone other than the Contractor and the Contractor shall remain responsible for fulfillment of all contract obligations.
15. **COMPLIANCE WITH LAWS:** The Contractor shall comply with all laws, ordinances, codes, rules, regulations, and licensing requirements that are applicable to the conduct of its business, including those of federal, state, and local agencies having jurisdiction and/or authority.
16. **AFFIRMATIVE ACTION:** The Contractor shall take affirmative action in complying with all Federal and State requirements concerning fair employment and employment of people with disabilities, and concerning the treatment of all employees without regard to discrimination by reason of race, color, religion, sex, national origin, or disability.
17. **INSURANCE:** During the term of the contract, the contractor at its sole cost and expense shall provide commercial insurance of such type and with such terms and limits as may be reasonably associated with the contract. As a minimum, the contractor shall provide and maintain the following coverage and limits:
- a. Worker's Compensation - The contractor shall provide and maintain Worker's Compensation Insurance, as required by the laws of North Carolina, as well as employer's liability coverage with minimum limits of \$150,000.00, covering all of Contractor's employees who are engaged in any work under the contract. If any work is subcontracted, the contractor shall require the subcontractor to provide the same coverage for any of its employees engaged in any work under the contract.
  - b. Commercial General Liability - General Liability Coverage on a Comprehensive Broad Form on an occurrence basis in the minimum amount of \$500,000.00 Combined Single Limit. (Defense cost shall be in excess of the limit of liability.)
  - c. Automobile - Automobile Liability Insurance, to include liability coverage, covering all owned, hired and non-owned vehicles, used in connection with the contract. The minimum combined single limit shall be \$150,000.00 bodily injury and property damage; \$150,000.00 uninsured/under insured motorist; and \$1,000.00 medical payment.

Providing and maintaining adequate insurance coverage is a material obligation of the contractor and is of the essence of this contract. All such insurance shall meet all laws of the State of North Carolina. Su insurance coverage shall be obtained from companies that are authorized to provide such coverage and that are authorized by the Commissioner of Insurance to do business in North Carolina. The contractor shall at all times comply with the terms of such insurance policies, and all requirements of the insurer under any such insurance policies, except as they may conflict with existing North Carolina laws or this contract. The limits of coverage under each insurance policy maintained by the contractor shall not be interpreted as limiting the contractor's liability and obligations under the contract.

18. **ADVERTISING:** The offeror shall not use the award of a contract as part of any news release or commercial advertising.
19. **ENTIRE AGREEMENT:** This contract and any documents incorporated specifically by reference represent the entire agreement between the parties and supersede all prior oral or written statements or agreements. This Request for Proposals, any addenda thereto, and the offeror's proposal are incorporated herein by reference as though set forth verbatim.

All promises, requirements, terms, conditions, provisions, representations, guarantees, and warranties contained herein shall survive the contract expiration or termination date unless specifically provided otherwise herein, or unless superseded by applicable Federal or State statutes of limitation.

20. **AMENDMENTS:** This contract may be amended only by written amendments duly executed by the Agency and the Contractor. The NC Division of Purchase and Contract shall give prior approval to any amendment to a contract awarded through that office.

- 
21. **TAXES:** G.S. 143-59.1 bars the Secretary of Administration from entering into contracts with vendors if the vendor or its affiliates meet one of the conditions of G. S. 105-164.8(b) and refuse to collect use tax on sales of tangible personal property to purchasers in North Carolina. Conditions under G. S. 105-164.8(b) include: (1) Maintenance of a retail establishment or office, (2) Presence of representatives in the State that solicit sales or transact business on behalf of the vendor and (3) Systematic exploitation of the market by media-assisted, media-facilitated, or media-solicited means. By execution of the proposal document the vendor certifies that it and all of its affiliates, (if it has affiliates), collect(s) the appropriate taxes.
22. **YEAR 2000 COMPLIANCE/WARRANTY:** Vendor shall ensure the product(s) and service(s) furnished pursuant to this agreement ("product" shall include, without limitation, any piece of equipment, hardware, firmware, middleware, custom or commercial software, or internal components, subroutines, and interfaces therein) which perform any date and/or time data recognition function, calculation, or sequencing, will support a four digit year format, and will provide accurate date/time data and leap year calculations on and after December 31, 1999, at the same level of functionality for which originally acquired without additional cost to the user. This warranty shall survive termination or expiration of the agreement.
23. **GENERAL INDEMNITY:** The contractor shall hold and save the State, its officers, agents, and employees, harmless from liability of any kind, including all claims and losses accruing or resulting to any other person, firm, or corporation furnishing or supplying work, services, materials, or supplies in connection with the performance of this contract, and from any and all claims and losses accruing or resulting to any person, firm, or corporation that may be injured or damaged by the contractor in the performance of this contract and that are attributable to the negligence or intentionally tortious acts of the contractor provided that the contractor is notified in writing within 30 days that the State has knowledge of such claims. The contractor represents and warrants that it shall make no claim of any kind or nature against the State's agents who are involved in the delivery or processing of contractor goods to the State. The representation and warranty in the preceding sentence shall survive the termination or expiration of this contract.
24. **OUTSOURCING:** Any vendor or subcontractor providing call or contact center services to the State of North Carolina shall disclose to inbound callers the location from which the call or contact center services are being provided.

If, after award of a contract, the contractor wishes to outsource any portion of the work to a location outside the United States, prior written approval must be obtained from the State agency responsible for the contract.

Vendor must give notice to the using agency of any relocation of the vendor, employees of the vendor, subcontractors of the vendor, or other persons performing services under a state contract outside of the United States.

25. **By EXECUTIVE ORDER 24**, issued by Governor Perdue, and N.C. G.S. § 133-32, it is unlawful for any vendor or contractor ( i.e. architect, bidder, contractor, construction manager, design professional, engineer, landlord, offeror, seller, subcontractor, supplier, or vendor), to make gifts or to give favors to any State employee of the Governor's Cabinet Agencies (i.e., Administration, Commerce, Correction, Crime Control and Public Safety, Cultural Resources, Environment and Natural Resources, Health and Human Services, Juvenile Justice and Delinquency Prevention, Revenue, Transportation, and the Office of the Governor). This prohibition covers those vendors and contractors who:
- (1) have a contract with a governmental agency; or
  - (2) have performed under such a contract within the past year; or
  - (3) anticipate bidding on such a contract in the future.

For additional information regarding the specific requirements and exemptions, vendors and contractors are encouraged to review Executive Order 24 and G.S. Sec. 133-32.

Executive Order 24 also encouraged and invited other State Agencies to implement the requirements and prohibitions of the Executive Order to their agencies. Vendors and contractors should contact other State Agencies to determine if those agencies have adopted Executive Order 24."